



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 18, 1998

Mr. Andrew A. Chance
Powell, Chance & Leon
808 West Avenue
Austin, Texas 78701-2208

OR98-2247

Dear Mr. Chance:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118611.

The Quinlan Independent School District (the "district"), which you represent, received an open records request for various records pertaining to two former district employees. We note at the outset that this office previously determined in Open Records Letter No. 98-1397 (1998) that some of the records currently being requested are excepted from required public disclosure pursuant to section 552.103 of the Government Code. This office considers Open Records Letter No. 98-1397 to be a "previous determination" for purposes of section 552.301 of the Government Code, and we therefore need not further address the public nature of those documents here. The district may continue to follow the conclusions in Open Records Letter No. 98-1397 with regard to those particular records.

The requestor, an attorney representing the former employees, seeks ten categories of information, including records pertaining to the district's hiring and termination of the employees, the employees' performance evaluations, and the employees' personnel files. The only documents you have submitted to this office, which you state are a representative sample of the documents you seek to withhold, consist of four pages of handwritten notes apparently taken during interviews with various district employees regarding one of the former employees. These four documents clearly are not representative of the requested records as a whole. Thus, it appears you only seek to withhold information substantially similar to the four submitted documents. We therefore assume that the district has released the other requested records to the requestor. If it has not, it must do so at this time. *See Gov't Code § 552.221; .301.*

We now address your claims regarding the records at issue. You seek to withhold the handwritten notes pursuant to sections 552.103 and 552.111 of the Government Code.

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 at 1 (1991). This office determined in Open Records Letter No. 98-1397 that a report of the district's investigation into allegations made by one of the former employees related to reasonably anticipated litigation and therefore could be withheld from the public pursuant to section 552.103 of the Government Code. The records you have submitted to this office appear to directly relate to that investigation. Assuming such is the case, and that the former employees have had no prior access to these documents, we conclude that the district may withhold these records pursuant to section 552.103.¹ See Open Records Decision Nos. 349, 320 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/nc

Ref.: ID# 118611

Enclosures: Submitted documents

cc: Mr. Tony Conners
Brim, Arnett & Robinett
2525 Wallingwood Dr. Bldg. 14
Austin, Texas 78746
(w/o enclosures)

¹Because we resolve your request under section 552.103, we need not address the applicability of section 552.111.